

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

RALPH LYNN FERGUSON JR,

Plaintiff,

vs.

J. KEITH STANLEY, INDIVIDUALLY  
AND AS PARTNER AT FAIRCHILD,  
PRICE, HALEY & SMITH, LLP;

Defendant.

No.1:17-CV-00295-MAC

**ORDER TO SERVE COPY**

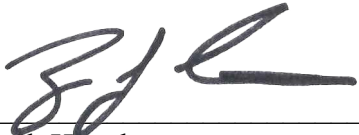
This case is assigned to the Honorable Marcia A. Crone, United States District Judge, and referred to the undersigned for pretrial management. On July 10, 2017, Plaintiff Ralph Ferguson (“Ferguson”) filed his complaint against Defendant J. Keith Stanley (“Stanley”). Doc. No. 1. On September 28, 2017, it appears Stanley was properly served with the summons and Ferguson’s original complaint. Doc. No. 6. However, Stanley failed to appear and now faces default. Doc. No. 12.

Default is a drastic measure. *Nishimatsu Const. Co., Ltd. v. Houston Nat. Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (“The defendant, by his default, admits the plaintiff’s well-pleaded allegations of fact, is concluded on those facts by the judgment, and is barred from contesting on appeal the facts thus established.”). Moreover, a party in default must first successfully set aside the default before it can meaningfully defend itself in the lawsuit. *See New York Life Ins. Co. v. Brown*, 84 F.3d 137, 143 (5th Cir. 1996).

Therefore, the undersigned **ORDERS** that the Clerk of Court serve Defendant J. Keith Stanley with a copy of Ferguson’s “Motion to Take Judicial Notice of Facts” (Doc. No. 12),

“Affidavit and Request” (Doc. No. 16), and the Clerk’s Entry of Default (Doc. No. 17) via email at his last known email address in CM/ECF: jstanle3@progressive.com.

SIGNED this 18th day of March, 2020.



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Zack Hawthorn  
United States Magistrate Judge